

J. Peter KLEIN et al.
Appl. No. 09/544,984
August 16, 2004

Atty. Docket No.: 4377-38

REMARKS/ARGUMENTS

Applicants acknowledge with gratitude the indication that Claims 12-15 are deemed allowable. Solely in an effort to advance prosecution of these allowed claims, Claims 10, 11, 18 and 47-49 have been canceled without prejudice or disclaimer of the subject matter contained therein. As result, claims 12-15 are pending. Applicants reserve the right to file continuing applications for canceled and/or withdrawn subject matter. No new matter has been added.

Entry of the above amendment(s) is proper under 37 C.F.R. § 1.116 because the amendment(s): (a) **places the application in condition for allowance** (for the reasons discussed herein); (b) **do not raise any new issues requiring further search and/or consideration** (since the amendments amplify or render moot issues previously discussed throughout the prosecution); (c) **do not present any additional claims** without canceling a corresponding number of finally rejected claims; and (d) **place the application in better form for appeal**, should an appeal be necessary. Thus, entry is respectfully requested.

The Office Action provisionally rejects claims 18 and 47-49 under 35 U.S.C. § 101 as claiming the same invention as that of claims 1, 8 and 21 of copending Application No. 09/288,556 (now U.S. Patent No. 6,774,130, which issued 10-Aug-2004). Applicants respectfully submit that claims 18 and 47-49 are canceled, thereby rendering this rejection moot.

The Office Action rejects claims 10, 11, 18 and 47-49 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 and 3 of U.S. Patent No. 6,103,730. Applicants respectfully submit that claims 10, 11, 18 and 47-49 are canceled, thereby rendering this rejection moot.

The Office Action further states that Claims 10-11 and 18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over

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Claim 1 of U.S. Patent No. 5,807,861 (Klein et al.). Applicants respectfully submit that claims 10-11 and 18 are canceled, thereby rendering this rejection moot.

CONCLUSION

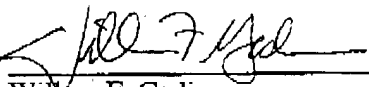
It is believed that this application is now in condition for allowance. If anything further could be done to place the above-captioned patent application in better condition for allowance (i.e., via Examiner's Amendment), then please contact the undersigned attorney at the telephone number listed below.

Please grant any further extension(s) of time deemed necessary for entry of this communication. The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper filed hereafter) to Deposit Account No. 14-1140. Please credit any overpayment of fees to such Deposit Account.

Respectfully submitted,

NIXON & VANDERHYE P.C.

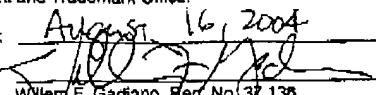
Date: August 16, 2004

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this document (including any paper referred to as being attached or enclosed) is being sent to the U.S. Patent and Trademark Office via facsimile transmission to (703) 872-9306 on the date indicated below, with a coversheet addressed to Commissioner for Patents, U.S. Patent and Trademark Office.

Date: August 16, 2004
By: 
Willem F. Gadiano, Reg. No. 37,136